

## HUMAN SERVICES DEPARTMENT[441]

### Notice of Intended Action

#### **Proposing rule making related to five-year rules review and providing an opportunity for public comment**

The Human Services Department hereby proposes to amend Chapter 40, “Application for Aid,” Chapter 41, “Granting Assistance,” Chapter 46, “Overpayment Recovery,” and Chapter 60, “Refugee Cash Assistance,” Iowa Administrative Code.

#### *Legal Authority for Rule Making*

This rule making is proposed under the authority provided in Iowa Code sections 217.6 and 239B.4.

#### *State or Federal Law Implemented*

This rule making implements, in whole or in part, Iowa Code sections 217.6 and 239B.4.

#### *Purpose and Summary*

This proposed rule making reflects changes found during the Department’s five-year rules review.

These amendments include updating the name of the Food Assistance program to the Supplemental Nutrition Assistance Program (SNAP), removing incorrect or obsolete cross references, rescinding obsolete rules, adding information about the Kinship Caregiver Program, updating a division name, and adding clarifying language to rules.

Time frames for refugee cash assistance are proposed to be updated for refugees who entered the country on or after October 1, 2021, to allow for 12 months of assistance based on federal regulations in 87 Fed. Reg. 17312 (March 28, 2022). Rules are also proposed to be added to provide information on Afghan special immigrant (SI) parolees, Afghan SI conditional permanent residents (CPRs) and Afghan humanitarian parolees. A new definition of “safe haven” is proposed to be added.

#### *Fiscal Impact*

This rule making has no fiscal impact to the State of Iowa.

#### *Jobs Impact*

After analysis and review of this rule making, no impact on jobs has been found.

#### *Waivers*

Any person who believes that the application of the discretionary provisions of this rule making would result in hardship or injustice to that person may petition the Department for a waiver of the discretionary provisions, if any, pursuant to rule 441—1.8(17A,217).

#### *Public Comment*

Any interested person may submit written comments concerning this proposed rule making. Written comments in response to this rule making must be received by the Department no later than 4:30 p.m. on July 5, 2022. Comments should be directed to:

Nancy Freudenberg  
Department of Human Services  
Hoover State Office Building, Fifth Floor  
1305 East Walnut Street  
Des Moines, Iowa 50319-0114  
Email: [appeals@dhs.state.ia.us](mailto:appeals@dhs.state.ia.us)

### *Public Hearing*

No public hearing is scheduled at this time. As provided in Iowa Code section 17A.4(1)“b,” an oral presentation regarding this rule making may be demanded by 25 interested persons, a governmental subdivision, the Administrative Rules Review Committee, an agency, or an association having 25 or more members.

### *Review by Administrative Rules Review Committee*

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rule making by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rule making at its [regular monthly meeting](#) or at a special meeting. The Committee’s meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

The following rule-making actions are proposed:

ITEM 1. Amend rule 441—40.22(239B), introductory paragraph, as follows:

**441—40.22(239B) Application.** The application for the family investment program shall be submitted on the Food and Financial Support Application, Form 470-0462 or Form 470-0462(S). The application shall be signed by the applicant, the applicant’s authorized representative or, when the applicant is incompetent or incapacitated, someone acting responsibly on the applicant’s behalf. When both parents, or a parent and a stepparent, are in the home and eligibility is determined on a family or household basis, one parent or stepparent may sign the application and attest to the information for the assistance unit.

ITEM 2. Amend paragraph **40.22(5)“c”** as follows:

c. When assistance has been canceled for failure to return a completed review form pursuant to subrule 40.27(3), assistance shall be reinstated without a new application if the completed form is received by the department within 14 days of the effective date of cancellation and eligibility can be reestablished. If the fourteenth calendar day falls on a weekend or state holiday, the client shall have until the next business day to provide the information. The effective date of assistance shall be the date the Review/Recertification Eligibility Document, Form 470-2881, is received.

ITEM 3. Amend rule 441—40.23(239B), introductory paragraph, as follows:

**441—40.23(239B) Date of application.** The date of application is the date an identifiable Food and Financial Support Application, Form 470-0462 or Form 470-0462(S), is received by the department. When an application is delivered to a closed office, it will be considered received on the first day that is not a weekend or state holiday following the day that the office was last open.

ITEM 4. Amend subrule 40.24(4) as follows:

**40.24(4)** The decision with respect to eligibility shall be based on the applicant’s eligibility or ineligibility on the date the department enters all eligibility information into the department’s computer system, ~~except as described in subrule 40.24(3)~~. The applicant shall become a recipient on the date all eligibility information is entered into the department’s computer system and the computer system determines the applicant is eligible for aid.

ITEM 5. Amend rule 441—40.26(239B) as follows:

**441—40.26(239B) Effective date of grant.** New approvals shall be effective as of the date the applicant becomes eligible for assistance, but in no case shall the effective date be earlier than seven days following the date of application. When an individual is added to an existing eligible group, the individual shall be added effective as of the date the individual becomes eligible for assistance, but in no case shall the effective date be earlier than seven days following the date the change is reported. When it is reported that a person is anticipated to enter the home, the effective date of assistance shall be no earlier than the date of entry or seven days following the date of report, whichever is later.

When the change is timely reported as described at subrule 40.27(4), a payment adjustment shall be made when indicated. When the individual's presence is not timely reported as described at subrule 40.27(4), excess assistance issued is subject to recovery.

In those instances where a person previously excluded from the eligible group as described at 441—subrule 41.27(11) is to be added to the eligible group, the effective date of eligibility shall be seven days following the date the person indicated willingness to cooperate. However, in no instance shall the person be added until cooperation has actually occurred.

EXCEPTIONS: When adding a person who was previously excluded from the eligible group for failing to comply with 441—subrule 41.22(13), the effective date of eligibility shall be seven days following the date that the social security number or proof of application for a social security number is provided.

When adding a person who was previously excluded from the eligible group as described at 441—subrules 41.23(5), and 41.25(5) and 46.28(2) and rule 441—46.29(239B), the effective date of eligibility shall be seven days following the date that the period of ineligibility ended.

When adding a person who was previously excluded from the eligible group as described at 441—subrule 41.24(8), the effective date of eligibility shall be seven days following the date the person signs a family investment agreement or the date the person is otherwise eligible, whichever is later. In no case shall the effective date be within the six-month ineligibility period of a subsequent limited benefit plan as described at 441—paragraph 41.24(8) “a.”

This rule is intended to implement Iowa Code section 239B.3.

ITEM 6. Amend paragraph **40.27(3)“b”** as follows:

b. When the client has completed Form 470-0462 or Form 470-0462(S), Food and Financial Support Application, for another purpose, this form may be used as the review document.

ITEM 7. Amend subparagraph **41.22(6)“b”(4)** as follows:

(4) Paying to the department any cash support payments for a member of the eligible group, except as described at 41.27(7) “p.” ~~and “q.”~~ received by a recipient after the date of decision as defined in 441—subrule 40.24(4).

ITEM 8. Amend paragraph **41.22(16)“g”** as follows:

g. Other circumstances exist which indicate that living with the parents or legal guardian will defeat the goals of self-sufficiency and responsible parenting. Situations which appear to meet this good cause reason must be referred to the administrator of the division of ~~economic assistance~~ adult, children and family services, or the administrator's designee, for determination of good cause.

ITEM 9. Amend paragraph **41.23(5)“b,”** introductory paragraph, as follows:

b. *Attestation of status.* As a condition of eligibility, an attestation of citizenship or alien status shall be made for all applicants and recipients on Form 470-0462 or 470-0462(S), Food and Financial Support Application, or Form 470-2549, Statement of Citizenship Status. Form 470-2881, 470-2881(S), 470-2881(M), or 470-2881(MS), Review/Recertification Eligibility Document, may be used to attest to the citizenship of dependent children who enter a recipient household. Failure to sign a form attesting to citizenship when required to do so creates ineligibility for the entire eligible group. The attestation may be signed by:

ITEM 10. Adopt the following **new** implementation sentence in rule **441—41.24(239B)**:

This rule is intended to implement Iowa Code section 239B.4(6).

ITEM 11. Rescind and reserve subrule **41.25(1)**.

ITEM 12. Amend subrule 41.25(2), introductory paragraph, as follows:

**41.25(2) *Duplication of assistance.*** A recipient whose needs are included in a family investment program grant shall not concurrently receive a grant under any other public assistance program administered by the department, including IV-E foster care, ~~or~~ state-funded foster care or kinship caregiver program payments.

ITEM 13. Amend subparagraph **41.25(5)“c”(2)** as follows:

(2) An individual is not participating in a strike at the individual's place of employment when the individual is not picketing and does not intend to picket during the course of the dispute, does not draw strike pay, and provides a signed statement that the individual is willing and ready to return to work but does not want to cross the picket line solely because of the risk of personal injury or death or trauma from harassment. The ~~district administrator~~ service area manager shall determine whether such a risk to the individual's physical or emotional well-being exists.

ITEM 14. Rescind and reserve subrule **41.25(9)**.

ITEM 15. Amend subrule 41.25(11), introductory paragraph, as follows:

**41.25(11) *Access to benefits.*** As a condition of eligibility, applicants and recipients must agree in writing to not use an electronic access card at prohibited locations. By signing Form 470-0462 or 470-0462(S), Food and Financial Support Application, or Form 470-2881, 470-2881(S), 470-2881(M), or 470-2881(MS), Review/Recertification Eligibility Document, the applicant, the applicant's authorized representative or, when the applicant is incompetent or incapacitated, someone acting responsibly on the applicant's behalf agrees to this condition of eligibility. When both parents, or a parent and a stepparent, are in the home and eligibility is determined on a family or household basis, one parent or stepparent may sign the application and agree to this condition for the assistance unit. Failure to sign a form agreeing to not use the electronic access card at prohibited locations creates ineligibility for the entire eligible group.

ITEM 16. Amend paragraph **41.25(11)“e”** as follows:

*e.* A new period of ineligibility shall be established when:

(1) to (3) No change.

Assistance issued pending the final decision of an appeal is not subject to recovery pursuant to ~~441—subrule 7.9(6)~~ rule 441—7.17(17A).

ITEM 17. Amend paragraph **41.26(1)“e”** as follows:

*e.* A reserve of other property, real or personal, not to exceed \$2000 for applicant assistance units and \$5000 for recipient assistance units. EXCEPTION: Applicant assistance units with at least one member who was a recipient in Iowa in the month prior to the month of application are subject to the \$5000 limit. The exception includes those persons who did not receive an assistance grant due to the limitations described at rules 441—45.26(239B) and 441—45.27(239B) ~~and persons whose grants were suspended as in 41.27(9)“f” in the month prior to the month of application.~~

Resources of the applicant or the recipient shall be determined in accordance with subrule 41.26(2).

ITEM 18. Amend subrule 41.26(4) as follows:

**41.26(4) *Liquidation.*** When proceeds from the sale of resources or conversion of a resource to cash, together with other nonexempted resources, exceed the property limitations, the recipient is ineligible to receive assistance until the amount in excess of the resource limitation has been expended unless immediately used to purchase a homestead, or reduce the mortgage on a homestead.

*a.* and *b.* No change.

Payments from property sold under an installment contract are exempt as income as specified in paragraphs 41.27(1)“*f*” and 41.27(7)“*ah.*” ~~41.27(7)“*aj.*”~~ The portion of any payment received representing principal is considered a resource upon receipt. The interest portion of the payment is considered a resource the month following the month of receipt.

ITEM 19. Amend rule 441—41.27(239B) as follows:

**441—41.27(239B) Income.** All unearned and earned income, unless specifically exempted, disregarded, deducted for work expenses, or diverted as defined in these rules, shall be considered in determining initial and continuing eligibility and the amount of the family investment program grant.

1. and 2. No change.

3. The amount of the family investment program grant shall be determined by subtracting countable net income from the payment standard for the eligible group. Child support assigned to the department in accordance with subrule 41.22(7) and retained by the department as described in subparagraph 41.27(1)“h”(2) shall be considered as exempt income for the purpose of determining continuing eligibility. ~~including child support as specified in paragraph 41.27(7)“g.”~~ Deductions and diversions shall be allowed when verification is provided.

**41.27(1) Unearned income.** Unearned income is any income in cash that is not gained by labor or service. When taxes are withheld from unearned income, the amount considered will be the net income after the withholding of taxes (Federal Insurance Contribution Act, state and federal income taxes). Net unearned income shall be determined by deducting reasonable income-producing costs from the gross unearned income. Money left after this deduction shall be considered gross income available to meet the needs of the eligible group.

a. to g. No change.

h. Support payments in cash shall be considered as unearned income in determining initial and continuing eligibility.

(1) Any nonexempt cash support payment for a member of the eligible group, made while the application is pending, shall be treated as unearned income and deducted from the initial assistance grant(s). Any cash support payment for a member of the eligible group, except as described at 41.27(7)“p,” and “q,” received by the recipient after the date of decision as defined in 441—subrule 40.24(4) shall be refunded to the child support recovery unit.

(2) No change.

~~(3) and (4) Rescinded IAB 12/3/97, effective 2/1/98.~~

i. The applicant or recipient shall cooperate in supplying verification of all unearned income, as defined at ~~rule 441—40.21(239B)~~ 441—paragraph 40.24(1)“b” and 441—subrule 40.27(4). When the information is available, the department shall verify ~~job unemployment~~ insurance benefits by using information supplied to the department by the department of workforce development. ~~When the department uses this information as verification, job insurance benefits shall be considered received the second day after the date that the check was mailed by workforce development. When the second day falls on a Sunday or federal legal holiday, the time shall be extended to the next mail delivery day.~~ When the client notifies the department that the amount of ~~job unemployment~~ insurance benefits used is incorrect, the client shall be allowed to verify the discrepancy. A payment adjustment shall be made when indicated. Recoupment shall be made for any overpayment. The client must report the discrepancy prior to the payment month or within ten days of the date on the Notice of Decision, Form 470-0485(C) or 470-0486(M), applicable to the payment month, whichever is later, in order to receive a payment adjustment.

**41.27(2) Earned income.** Earned income is defined as income in the form of a salary, wages, tips, bonuses, commissions earned as an employee, income from Job Corps, or profit from self-employment. Earned income from commissions, wages, tips, bonuses, Job Corps, or salary means the total gross amount irrespective of the expenses of employment. Income shall be considered earned income when it is produced as a result of the performance of services by an individual.

a. to g. No change.

h. *Income verification.* The applicant or recipient shall cooperate in supplying verification of all earned income and of any change in income, as defined at ~~rule 441—40.21(239B)~~ 441—paragraph 40.24(1)“b” and 441—subrule 40.27(4). A self-employed individual shall keep any records necessary to establish eligibility.

**41.27(3) to 41.27(5)** No change.

**41.27(6) Exempt as income and resources.** The following shall be exempt as income and resources:

a. No change.

b. The value of the ~~food assistance~~ supplemental nutrition assistance program benefit.

c. to w. No change.

x. The income of a person ineligible due to receipt of state-funded foster care, IV-E foster care, kinship caregiver program, or subsidized adoption assistance.

y. to ac. No change.

**41.27(7) Exempt as income.** The following are exempt as income.

a. to c. No change.

d. Payments Foster care or kinship caregiver program payments received by the family ~~providing~~ that is:

(1) Providing foster care to a child or children when the family is operating a licensed foster home,  
or

(2) Caring for a relative or fictive kin child or children placed in the home by a court order.

e. to ak. No change.

**41.27(8) to 41.27(11)** No change.

This rule is intended to implement Iowa Code section 239B.7.

ITEM 20. Amend subparagraph **41.30(3)“e”(1)** as follows:

(1) Families that have or are close to having received 60 months of assistance as defined in subrule 41.30(1) may request a hardship exemption. Requests for the hardship exemption shall be made on Form 470-3826 or Form 470-3826(S), Request for FIP Beyond 60 Months. In addition, families that have received assistance for 60 months and are no longer receiving FIP shall complete Form 470-0462 or Form 470-0462(S), Food and Financial Support Application, as described at rule 441—40.22(239B) as a condition for regaining FIP eligibility. Failure to provide the required application within ten days from the date of the department’s request shall result in denial of the hardship request.

ITEM 21. Amend subparagraph **41.30(3)“g”(4)** as follows:

(4) PROMISE JOBS staff shall provide necessary supportive services as described in 441—Chapter 93 and shall monitor the six-month FIA. Periodic contacts shall be made with the family ~~at least once a month~~ to monitor progress. These contacts need not be in person. Time and attendance reports shall be required as specified at 441—subrule 93.10(2).

ITEM 22. Amend rule **441—46.21(239B)**, definition of “Overpayment,” as follows:

“*Overpayment*” means any assistance payment received in an amount greater than the amount the eligible group is entitled to receive or the amount of any payment accessed and any associated fees for accessing the benefits at a prohibited location pursuant to 441—subrule 41.25(11).

ITEM 23. Amend rule 441—46.25(239B), introductory paragraph, as follows:

**441—46.25(239B) Source of recoupment.** Recoupment shall be made from basic needs. The minimum recoupment amount shall be the amount prescribed in subrule 46.25(3). Regardless of the source, the client may choose to make a lump sum payment, make periodic installment payments when an agreement to do this is made with the department of inspections and appeals, or have repayment withheld from the grant. The client shall sign Form 470-0495, ~~Repayment Contract~~ Agreement to Pay a Debt, when requested to do so by the department of inspections and appeals. When the client fails to make the agreed upon payment, the agency shall reduce the grant.

ITEM 24. Amend subrule 46.27(4) as follows:

**46.27(4) Change of circumstances.** When financial circumstances change, the ~~recoupment plan~~ Agreement to Pay a Debt is subject to revision.

ITEM 25. Amend subrule 60.1(3) as follows:

**60.1(3) Immigration and Naturalization Service documents.** Each refugee shall provide Immigration and Naturalization Service documents in the form of either an I-94 card, an I-151 or I-551 card, ~~or~~ an I-181 card, or other appropriate documentation to support the immigration status defined in subrule

60.1(1). If the name of the resettlement agency which resettled the refugee is not on the document, the refugee shall provide the name of the resettlement agency.

ITEM 26. Amend rule 441—60.7(217) as follows:

**441—60.7(217) Time limit for eligibility.**

**60.7(1) Assistance.** A refugee may receive assistance, if otherwise eligible,:

*a.* For refugees who entered the country prior to October 1, 2021, during the first eight months the refugee is in the United States, beginning the month the refugee enters the country.

*b.* For refugees who entered the country on or after October 1, 2021, during the first 12 months the refugee is in the United States, beginning the month the refugee enters the country.

EXCEPTION: For asylees, the date of entry is the date asylum is granted. The ~~eight-month~~ 8-month or 12-month period of eligibility begins the month asylum is granted. A nonrefugee child in the home with a refugee parent (or refugee parents, if both are in the home) is eligible for assistance until the parent(s) has been in the United States for ~~eight~~ 8 or 12 months, or until the child reaches ~~eight~~ 8 or 12 months of age, whichever occurs first. For Afghan special immigrant (SI) parolees and Afghan SI conditional permanent residents (CPRs), the date is the date of “entry into the community,” which is the date the individual departed a safe haven. For Afghan humanitarian parolees, the date is the latter of October 1, 2021, or the date of entry into the community, which is the date the individual departed a safe haven. “Safe haven” is the term the U.S. government and other relevant stakeholders have used for U.S. military bases in the continental United States that housed Afghans evacuated under Operation Allies Refuge/Operation Allies Welcome (OAR/OAW) as Afghans awaited resettlement to their ultimate state of residence.

~~60.7(1)~~ **60.7(2) Resources.** The resources of refugees excluded because of the ~~eight-month~~ 8-month or 12-month limit shall be considered in the same manner as though these refugees were included in the eligible group.

~~60.7(2)~~ **60.7(3) Income.**

*a. to d.* No change.

ITEM 27. Amend paragraph **60.9(5)“d”** as follows:

*d.* If the sanctioned individual is the only member of the filing unit, the assistance shall be terminated. If the filing unit includes other members, the department shall not take into account the sanctioned individual’s needs in determining the filing unit’s need for assistance. ~~If the sanctioned individual is a caretaker relative, assistance provided to the other persons in the grant shall be made in the form of protective payments as defined in rule 441—43.22(239B).~~

ITEM 28. Amend rule 441—60.14(217) as follows:

**441—60.14(217) Alternate payees.** Alternate payees are defined in 441—Chapter 43 except that refugee cash assistance shall be substituted for the family investment program whenever it appears.

EXCEPTION: ~~441—subrule 43.22(1), paragraph “c,” shall not apply to refugee cash assistance applicants or recipients.~~